

REMARKS

I. Status of the Claims

Claims 6-10, 13-14, and 17-20 are currently pending in this application. Claims 6-8 have been withdrawn from consideration as non-elected claims. Claims 1-5, 11-12, and 15-16 have been canceled. Claims 9, 13, 14, 17, and 18 have been amended. No new matter has been introduced by this Amendment. The rejections of claims 9, 10, 13, 14, and 17-20 are addressed below.

II. Rejection Under 35 U.S.C. § 103

Claims 1, 2, 4, 5, 9, and 11-20 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 5,714,065 to *Huder* in view of U.S. Patent No. 5,861,430 to *Markonius*, and claims 3 and 10 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Huder* in view of *Markonius* in further view of U.S. Patent No. 5,011,602 to *Totani*. Applicant respectfully disagrees with and traverses these rejections for at least the following reasons.

The Examiner alleges that, in light of the teachings of the cited references, it would have been obvious for one of ordinary skill in the art to have used the antimicrobial agent of *Markonius* in the teaching of *Huder*. To establish a *prima facie* case of obviousness, however, the Examiner bears the burden of showing at least that all of the claimed elements are taught or suggested by the reference combination. M.P.E.P. § 2143. Applicant respectfully submits that the combination of *Markonius* with *Huder* fails to teach or suggest a propolis component "contained in, or adhered to, a water-insoluble base member," an element of each of claims 9, 10, 13, 14, and 17-20.

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The Examiner relies upon the silver quartz granules (Fig. 1 and col. 3, lines 3-10) of *Huder* to satisfy the water-insoluble antibacterial member element of the instant claims. The Examiner, however, recognizes that *Huder* fails to teach or suggest a propolis component as its antimicrobial agent and, thus, relies upon *Markonius* to fill this void. Even if the propolis component of *Markonius* could be substituted for the antimicrobial agent of *Huder*, which Applicant submits is improper, the Examiner has failed at least to establish an element of the instant claims, a propolis component "contained in, or adhered to, a water-insoluble base member." Neither reference alone or their combination teaches or suggests this element of Applicant's claims.

For example, the reference combination fails at least to teach or suggest (for claims 9, 10, 13, and 14) an antibacterial member constituted such that a propolis component is contained in or adhered to a water-insoluble base member. Even if the propolis component of *Markonius* is substituted for the antimicrobial agent of *Huder*, there is no teaching or suggestion that a propolis component is "contained in, or adhered to, a water-insoluble base member." With respect to claims 17-20, the references combined fail to teach or suggest an antibacterial container wherein a propolis component contained in, or adhered to, a water-insoluble base member, is applied on the inner wall surface of a container for retaining water.

Applicant additionally disagrees with the Examiner's assessment of *Huder* in light of instant claim 13. The Examiner alleges that *Huder* "teaches a water insoluble antibacterial filter (Fig 1 col. 3 lines 3-10) wherein the antimicrobial agent is disposed in a base member, the ceramic filter (8-fig 1)." (Office Action, page 4.) Figure 1 of *Huder* describes a filter unit with a single ceramic filter (7-fig 1) and a separate antimicrobial

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agent (8-fig 1), for example, silver quartz granules. Looking at Figure 1 of *Huder*, contrary to what the Examiner suggests, there is no teaching or suggestion that the antimicrobial agent (8-fig 1) is "contained in" the ceramic filter (7-fig 1). Even if it is the filter unit of *Huder* that the Examiner contends the antimicrobial agent is "disposed in," the reference combination still fails to teach or suggest an element of claim 13, "an antibacterial member constituted such that a propolis component is contained in, or adhered to, a water-insoluble base member." Further, as amended, claim 13 recites additional elements, none of which are taught or suggested by the cited reference combination.

The rejection of claims 3 and 10 is improper for the reasons articulated above with respect to the combination of *Huder* with *Markonius* and for the additional reason that *Totani* does not cure their defects. Claim 3 has been canceled, thus, rendering moot the rejection over this claim. Applicant has amended claim 9, from which claim 10 depends, to include additional elements, which Applicant submits are not taught or suggested by the cited reference combination.

As amended, claims 17-20 recite additional elements, none of which are taught or suggested by the cited reference combination. For example, claim 17, from which claims 18-20 depend, recites "wherein a propolis component contained in, or adhered to, a water-insoluble base member, is applied on the inner wall surface of a container for retaining water." This element of claims 17-20 is not taught or suggested by *Huder* in view of *Markonius*.

As the Examiner has failed to establish a *prima facie* case of obviousness, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103 rejections.

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III. Conclusions

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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